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October 19, 2023

File No. 54268.03

Via ECF

Hon. Dale E. Ho
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

**RE: Charles v. Pinnacle Too, LLC, et al.
No. 22-CV-4232 (DEH)(JW)**

Dear Judge Ho:

We represent Defendants Pinnacle Too, LLC, Agir Electrical, LTD, and Antony Gironta in the above-referenced matter. We write jointly with Defendants FrankCrum 6, Inc. and Frank Crum Jr. (collectively, "Defendants") in response to Plaintiff's letter to the Court dated October 19, 2023 regarding the pre-trial conference scheduled for October 24, 2023. (Dkt. No. 91). Defendants respectfully request that pre-trial conference be deferred until after the parties' discovery conference with Judge Willis on November 1, 2023.

Defendants previously requested in their correspondence to the Court that the pre-trial conference scheduled for October 24 be rescheduled in light of Defendants' request for a 45-day extension of the discovery deadline to conduct depositions of select opt-in plaintiffs and complete post-deposition discovery. (Dkt. No. 80). Defendants have also sought leave to complete Plaintiff's continued deposition. (Dkt. No. 82). Yesterday, Judge Willis scheduled a conference for November 1 to address such discovery issues with all parties.

Plaintiff's contention that Defendants declined to submit a joint letter today is false. In fact, we proposed to Plaintiff that the parties jointly submit a letter reminding the Court of our upcoming conference before Judge Willis as discovery remains incomplete and reasoned that all parties would have greater clarity regarding the open discovery issues after such conference. Plaintiff did not respond to Defendants' email, and instead, unilaterally filed a letter with the Court just twenty minutes later. Plaintiff's actions continue to defy the Court's prior orders to work cooperatively with one another. Moreover, Defendants reject Plaintiff's repeated mischaracterizations of the parties' discussions and status of this litigation to the Court, including in his most recent correspondence filed today.

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In light of the Court's order directing the parties to appear for a conference to resolve outstanding discovery disputes on November 1 and for purposes of judicial economy, Defendants respectfully request that the October 24 pre-trial conference be deferred to a date convenient for the Court following the November 1 conference and that parties submit a joint status report at that time, including a motion schedule for the pending and anticipated motions.

We thank the Court for its time and attention to this matter.

Respectfully,

/s/ Simi Bhutani

Simi Bhutani of
LEWIS BRISBOIS BISGAARD & SMITH LLP

/s/ Evan Citron

Evan B. Citron of
OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

cc: All counsel of record (via ECF)